

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 2960 OF 1996

Smt.Nagarabai w/o Nivrutti Veer,
Age : 36 years, Occupation : Labour,
R/o Beed, C/o Trade Union Centre,
Bashirganj, Beed, District Beed.

...PETITIONER

-VERSUS-

- 1 The Chief Officer,
Nagar Parishad, Beed,
District Beed.
- 2 The Presiding Officer,
The Labour Court,
Shimala Building,
Osmanpura, Aurangabad.
- 3 The State of Maharashtra.
Mantralaya, Mumbai.

(Petition stands dismissed as against
Respondent Nos.2 and 3 for
non payment of Bhatta).

...RESPONDENTS

**WITH
WRIT PETITION NO.921 OF 1997**

The Chief Officer,
Municipal Council, Beed.

...PETITIONER

-VERSUS-

Nagrabai w/o Nivrutti Veer,
Age : 36 years, Occupation : Labour,
R/o Beed, C/o Trade Union Centre,

Bashirganj, Beed, Dist.Beed.

...RESPONDENT

**AND
WRIT PETITION NO.2965 OF 1996**

Smt.Dhrupatabai w/o Shrirang Khalage,
Age : 35 years, Occupation : Service,
R/o Beed, C/o Trade Union Center,
Bashirganj, Beed, Dist.Beed.

...PETITIONER

-VERSUS-

- 1 The Chief Officer,
Nagar Parishad, Beed,
District Beed.
- 2 Presiding Officer,
The Labour Court, Shimala
Building,
Osmanpura, Aurangabad.
- 3 The State of Maharashtra,
Mantralaya, Mumbai.

...RESPONDENTS

**WITH
WRIT PETITION NO.162 OF 1997**

Municipal Council, Beed.
Through it's Chief Officer.

...PETITIONER

-VERSUS-

Smt.Dhrupatabai w/o Shrirang Khalage,
Age : 35 years, Occupation : Service,
R/o Beed, C/o Trade Union Center,
Bashirganj, Beed, Dist.Beed.

...RESPONDENT

...
Advocate for the Employees : Shri P.L.Shahane and Shri Parag Shahane.
AGP for Respondent/State : Shri P.N.Kutti.
Advocate for the Employer/ Municipal Council : Shri S.S.Thombre.
...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 29th September, 2016

Oral Judgment :

1 Respondent No.2 in Writ Petition No.2965/1996, being the Presiding Officer of the Labour Court, stands deleted.

2 The Petitioner/ Employee in the first petition i.e. Writ Petition No.2960/1996 has challenged the award of the Labour Court dated 15.03.1995 by which Reference (IDA) No.75/1989 filed by her was partly allowed, but continuity in service and back wages have been denied. The Respondent / Municipal Council in the first petition filed by the employee is the Petitioner in the second petition i.e. Writ Petition No.921/1997, who has challenged the entire award.

3 The third Writ Petition No.2965/1996 has been filed by another employee identically placed as like the first employee. She has challenged the award dated 08.03.1995 by which the Labour Court allowed her Reference (IDA) No.63/1989, but refused continuity and full

back wages. The Respondent in the third petition is the Petitioner in the fourth petition i.e. Writ Petition No.162/1997.

4 In the light of the above, these petitions are taken up together for hearing considering that the employees are identically situated and the Employer/ Establishment is the same Municipal Council, Beed.

5 I have heard the strenuous submissions of Shri Shahane, learned Advocate on behalf of both these employees and Shri Thombre, learned Advocate on behalf of the Employer/ Establishment.

6 Notwithstanding the strenuous submissions of the learned Advocates, the subsequent events that have occurred in between the employees and the employer, render these four petitions of an academic interest.

7 Shri Shahane has placed on record a compilation of five pages, which the employees have acquired through their Union under the Right to Information Act. Same are taken on record and marked collectively as Exhibit X for identification.

8 It is apparent from Exhibit X that both these employees have

been reinstated in service pursuant to the impugned awards by the order dated 13.08.2002 and have been granted continuity of service from 01.01.1985 by recording that they would not claim the back wages. It is on this condition that both the employees have reported for duties and are presently in employment.

9 As such, the petitions filed by the Municipal Council/ Establishment i.e. Writ Petition Nos.921/1997 and 162/1997 need not be entertained since the Employees have now settled in employment over the past about 14 years and have been granted continuity from 01.01.1985.

10 Notwithstanding the above, even if the petitions filed by the employees are to be entertained, I do not find any merit in the submissions of Shri Shahane for the reason that there is no evidence before the Labour Court as regards whether, these employees were unemployed during the pendency of the reference cases, whether, they attempted to acquire alternate employment and whether, they failed to get any such employment.

11 The Honourable Supreme Court in the matter of *J.K. Synthetics Limited vs. K.P.Agrawal*, 2007(2) SCC 433, has concluded in paragraphs 18 and 19 that the employee claiming back wages must at

least step into the witness box to lead evidence that he had attempted to acquire alternate employment and had failed and hence continued to be unemployed.

12 In the light of the above and considering Exhibit X, the two petitions filed by the Municipal Council i.e. Writ Petition Nos.921/1997 and 162/1997 are disposed of. Rule is discharged.

13 The two petitions filed by the employees i.e. Writ Petition Nos.2960/1996 and 2965/1996 are dismissed. Rule is discharged.

kps

(RAVINDRA V. GHUGE, J.)